

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
CHARLOTTESVILLE DIVISION**

|                                 |   |                                       |
|---------------------------------|---|---------------------------------------|
| <b>UNITED STATES OF AMERICA</b> | ) | <b>Criminal Case No. 3:08cr-00042</b> |
|                                 | ) |                                       |
| <b>v.</b>                       | ) | <b><u>MEMORANDUM OPINION</u></b>      |
|                                 | ) |                                       |
| <b>TONY LLOYD JOHNSTON.</b>     | ) | <b>By: Norman K. Moon</b>             |
|                                 | ) | <b>United States District Judge</b>   |

Tony Lloyd Johnston, a federal inmate proceeding *pro se*, filed a “motion for relief from void § 2255 judgment” (docket no. 111) which the court construes as a motion to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255. Court records indicate that Johnston previously filed a motion to vacate pursuant to § 2255 on November 29, 2010 (docket no. 71) and also filed his first successive § 2255 motion on August 20, 2012 (docket no. 107).

This court may consider a successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit. *See* § 2255(h). Johnston offers no indication that he has obtained certification from the Court of Appeals to file a successive § 2255 motion.<sup>1</sup> Therefore, the motion will be summarily dismissed as successive. An appropriate order will issue this day.

The Clerk is directed to send copies of this memorandum opinion and accompanying order to Johnston.

**ENTER:** This 25<sup>th</sup> day of October, 2013.

  
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**NORMAN K. MOON**  
**UNITED STATES DISTRICT JUDGE**

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<sup>1</sup> Petitioner is hereby advised of the procedure for obtaining certification from the United States Court of Appeals for the Fourth Circuit to have this court review a successive § 2255 motion. Petitioner must submit a copy of the successive § 2255 motion to the Court of Appeals, along with a motion requesting a three-judge panel certification that the district court may review the successive § 2255 motion. *See* 28 U.S.C. § 2244 (as amended, 1996). A Fourth Circuit form and instructions for filing this motion available from the Fourth Circuit at the following address: Office of the Clerk, United States Court of Appeals for the Fourth Circuit, 900 E. Main St., Richmond, VA 23219.